



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

AUG 11 2005

Melissa B. Jordan, Treasurer
Sandy Lyons for Congress
Post Office Box 908
Hickory, North Carolina 28601

Sanford David "Sandy" Lyons
Post Office Box 908
Hickory, North Carolina 28601

RE: MUR 5673
Sandy Lyons for Congress and Melissa B. Jordan,
in her official capacity as treasurer
Sanford David "Sandy" Lyons

Dear Ms. Jordan and Mr. Lyons:

On August 8, 2005, the Federal Election Commission found that there is reason to believe Sandy Lyons for Congress and Melissa B. Jordan, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1)(C) and 11 C.F.R. § 400.21(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Additionally, the Commission found that there is reason to believe that Sanford David "Sandy" Lyons violated 2 U.S.C. § 441a-1(b)(1)(C). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact J. Cameron Thurber, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis

cc (without enclosures):

Sandy Lyons for Congress, 3776 Pinecrest Drive Northeast, Hickory, North Carolina 28601
Sanford David "Sandy" Lyons, Hickory, North Carolina 28601

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Sandy Lyons for Congress and **MUR 5673**
6 Melissa B. Jordan, in her official capacity
7 as treasurer
8 Sanford David "Sandy" Lyons
9

10 **I. INTRODUCTION**

11 This matter, initiated by the Federal Election Commission ("Commission") pursuant to
12 information ascertained in the normal course of carrying out its supervisory responsibilities,
13 involves requirements of the so-called "millionaires' amendment" (the "Amendment") of the
14 Bipartisan Campaign Reform Act, which obligate candidates to comply with special reporting
15 and notification requirements after expending personal funds in excess of specific thresholds, and
16 thereafter may allow opposing candidates to exceed normal contribution limits.

17 For the reasons set forth below, the Commission finds reason to believe that Sandy Lyons
18 for Congress (the "Committee"), the authorized committee of congressional candidate Sanford
19 David "Sandy" Lyons ("Lyons"), and Lyons failed to timely file an FEC Form 10, 24-Hour
20 Notice of Expenditure From Candidate's Personal Funds ("FEC Form 10").

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 **A. Facts**

23 Lyons was a 2004 primary candidate for North Carolina's Tenth District seat in the
24 United States House of Representatives. Three other candidates ran against Lyons in the
25 Republican primary election, which was held on July 20, 2004. Lyons placed third in the
26 primary and therefore was not a candidate in the subsequent run-off or general election.

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1 Lyons made a series of contributions to the Committee from his personal funds between
2 January 6 and August 31, 2004, all designated to the primary election. Lyons made an initial
3 expenditure of \$1,000 from his personal funds on January 6, 2004, seven days before he signed
4 his Statement of Candidacy. Lyons made further personal expenditures of \$100,000 and
5 \$109,000, both on March 31, 2004, and one of \$75,000 on June 18, 2004. On June 30, 2004,
6 Lyons made a \$60,000 contribution to the Committee, bringing the amount of personal funds he
7 expended to \$345,000. On July 9, 2004, Lyons made another contribution to the Committee
8 from his personal funds in the amount of \$100,000, bringing his total expenditures from his
9 personal funds to \$445,000, and exceeding the Amendment's threshold of \$350,000.¹ The
10 Committee reported this personal expenditure on an FEC Form 10, which was received by the
11 Commission via U.S. Mail on July 14, 2004.²

12 On August 3, 2004, the Commission's Reports Analysis Division ("RAD") sent a
13 Request for Additional Information to the Committee regarding the apparent late filing of the
14 FEC Form 10. In a follow-up discussion with RAD, the Committee acknowledged that it failed
15 to timely file the FEC Form 10 due to an oversight on the treasurer's part. RAD requested the
16 Committee to file an electronic memorandum to publicly provide an explanation for the late

¹ There was a discrepancy regarding the date of the expenditure on reports filed with the Commission. The notification filed on July 14, 2004 indicated the expenditure was made on July 8, 2004, while the 2004 October Quarterly Report indicated the date of the expenditure was July 9, 2004. Viewing the inconsistency in the light most favorable to the Committee, the latter of the dates was used in calculating the number of days between the expenditure and the filing of the notification.

² On August 31, 2004, forty-one days after he lost the primary, Lyons made another expenditure of \$4,000 from his personal funds, designated to the primary. Lyons did not have to file another Form 10 because he did not spend an additional \$10,000 over his initial filing. 2 U.S.C. § 441a-1(b)(D). Lyons' total expenditures from personal funds amounted to \$449,000 and were reported on the Committee's 2004 April Quarterly Report, 2004 12 Day Pre-Primary Report, and 2004 October Quarterly Report.

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1 filing of the FEC Form 10. However, no such memorandum has yet been received by the
2 Commission.

3 **B. Analysis**

4 When a candidate for the United States House of Representatives “makes or obligates to
5 make an aggregate amount of expenditures from personal funds in excess of \$350,000 in
6 connection with any election” the candidate or his authorized committee must notify the
7 Commission by filing an FEC Form 10 with the Commission within twenty-four hours after
8 exceeding the threshold. 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b); *see* 11 C.F.R.
9 §§ 400.4(a) (definition of personal funds). The regulations specify that the FEC Form 10 must
10 be *received* by the Commission within twenty-four hours of the threshold being exceeded.
11 11 C.F.R. § 400.21(b). Although the FEC Form 10 is signed by the Committee treasurer, the
12 candidate is responsible for ensuring that it is filed in a timely manner. 11 C.F.R. § 400.25.

13 As expenditures from Lyons’ personal funds exceeded the \$350,000 aggregate threshold
14 on July 9, 2004, the FEC Form 10 was due no later than July 10, 2004, at 11:59 p.m. 11 C.F.R.
15 §§ 100.19(g); 400.9(b). However, the Commission did not receive Lyons’ FEC Form 10 until
16 July 14, 2004, four days after the deadline.

17 Accordingly, there is reason to believe that Sandy Lyons for Congress and Melissa B.
18 Jordan, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1)(C) and 11 C.F.R.
19 § 400.21(b). Since the statute and the regulations place a requirement on the candidate to ensure
20 that appropriate filings are made with respect to his expenditures from personal funds, there is
21 reason to believe that Sanford David “Sandy” Lyons violated 2 U.S.C. § 441a-1(b)(1)(C).

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